

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

DAVID LANDA,

Plaintiff,

v.

SCOTTSDALE INSURANCE CO.,

Defendant.

§
§
§
§
§
§
§
§
§

CAUSE NO. _____

DEFENDANT SCOTTSDALE INSURANCE COMPANY'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant Scottsdale Insurance Company (“Scottsdale”) files this Notice of Removal pursuant to 28 U.S.C. §1446(a) based on diversity of citizenship and amount in controversy and respectfully shows the Court as follows:

PROCEDURAL BACKGROUND

1. On or about August 2, 2016, Plaintiff filed Plaintiff's Original Petition in the matter styled *David Landa v. Scottsdale Insurance Co.*, Cause No. C-3569-16-A; in the 92nd Judicial District Court of Hidalgo County, Texas (“State Action”). This is an insurance bad faith lawsuit for damage to property from an alleged August 13, 2014 “Covered Event”. Plaintiff alleges that Scottsdale improperly handled and underpaid Plaintiff's claim. Plaintiff has made a jury demand.

BASIS FOR REMOVAL

2. Removal is proper under 28 U.S.C. §§ 1332(a), (1), 1441(a), and 1446. There is complete diversity of citizenship and the amount in controversy is above the required limit.

3. In Plaintiff's Original Petition, Plaintiffs seek damages of \$100,000 or less. Accordingly, the amount in controversy exceeds the jurisdictional removal requirement of \$75,000.

4. Upon information and belief, David Landa is a Texas resident.

5. Defendant Scottsdale is incorporated under the laws of the state of Arizona with its principal place of business in Arizona.

THE REMOVAL IS PROCEDURALLY CORRECT

6. On or about August 10, 2016, Defendant Scottsdale was served with citation and process of this suit. On September 1, 2016, it filed its Original Answer in the state court action. Accordingly, this Notice of Removal is timely in that it is filed within 30 days of receipt by Defendant of a copy of the initial pleading setting forth a claim for relief. 28 U.S.C. §1446(b).

7. Venue is proper in this district under 28 U.S.C. §1446(a) because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to the Plaintiff's claims allegedly occurred in this district and the property in question is located in this district.

8. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

9. Pursuant to 28 U.S.C. §1446(d), promptly after Defendant files this Notice, written notice of the filing will be given to Plaintiff, the adverse party.

10. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of Maverick County, promptly after Defendant files this Notice.

11. As required by 28 U.S.C. § 1446(a) and Rule 81.1 of the Local Rules, simultaneously with the filing of this notice of removal, attached hereto as Exhibit "A" is an Index of State Court Documents with attachments including all executed process, pleadings, orders, and the docket sheet. A list of counsel is attached hereto as Exhibit "B."

CONCLUSION

12. Based upon the foregoing and the other documents filed contemporaneously with this Notice, all fully incorporated herein by reference, Defendant Scottsdale Insurance Company hereby removes this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ George H. Arnold
George H. Arnold, Attorney-In-Charge
Federal Bar No. 15948
State Bar No. 00783559
E-Mail: garnold@thompsoncoe.com
Marilyn S. Cayce
Federal Bar No. 9986
State Bar No. 17705500
E-Mail: mcayce@thompsoncoe.com
One Riverway, Suite 1400
Houston, Texas 77056-1988
(713) 403-8210 Telephone
(713) 403-8299 Facsimile

*Counsel for Defendant
Scottsdale Insurance Company*

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of September, 2016, a true and correct copy of this instrument was forwarded to all known counsel of record using the Court's CM/ECF system, in accordance with the Federal Rules of Civil Procedure and applicable Local Rules.

Christopher Bertini
The Bertini Law Firm, P.C.
The 1894 Trube Estate Building
2415 Market Street
Galveston, Texas 77550
Telephone: (409) 621-1876
Faxsimile: (800) 628-1498
E-Mail: cbertini@bertinilaw.com
Counsel for Plaintiff

/s/ Marilyn S. Cayce

MARILYN S. CAYCE